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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JEFFREY MARSHALL,

11 Plaintiff,

No. CIV S-04-1657 JAM EFB P

12 vs.

13 CASTRO, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff is a former state prisoner proceeding without counsel in an action brought under
17 42 U.S.C. § 1983. According to plaintiff, he intends to call several unincarcerated witnesses at
18 trial. Plaintiff is reminded that the following procedures apply for securing the attendance of
19 unincarcerated witnesses at trial:

20 I. Obtaining Attendance of an Unincarcerated Witness Who Agrees to Testify
21 Voluntarily

22 A party need not obtain an order to produce an unincarcerated witness who intends to
23 testify voluntarily. However, the party is responsible for ensuring attendance of such a witness.

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II. Obtaining Attendance of Unincarcerated Witnesses Who Refuse to Testify
Voluntarily

To obtain the presence of a witness who is at liberty and who refuses to testify voluntarily, the party who intends to present that witness's testimony must complete a subpoena and submit it to the United States Marshal for service upon the witness. Blank subpoena forms may be obtained from the Clerk of the Court. Completed subpoenas must be submitted *not earlier than four weeks and not later than two weeks before trial*. The party must also tender through the United States Marshal a money order payable to the witness in the amount of the daily witness fee, \$40.00, *plus the witness's travel expenses*. If plaintiff seeks the witness's presence and proceeds *in forma pauperis*, then plaintiff must also submit a copy of the order granting him leave so to proceed.

The United States Marshal *will not serve a subpoena upon an incarcerated witness without the witness fee and travel expenses having been tendered*. No statute authorizes the use of public funds for expenses in civil cases and so even a plaintiff proceeding *in forma pauperis* must tender the fees.

So ordered.

Dated: October 22, 2009.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE